THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO :1232 of 2000

Dated: 03.08.2005

Between:

1. **Mirza Basheer Baid (Died) and L.Rs and 9 others**

..Appellants

Vs.

1. **The Government of A.P., rep., by its**
   Secretary for Housing and Municipal
   Administration and Urban Development
   Department, Secretariat Building,
   Secretariat, Hyderabad and 7 others…. Respondents.

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JUDGMENT: (Per the Honourable Smt Justice T. Meena Kumari)

This writ appeal is filed by the appellants herein aggrieved by the order passed by this Court in W.P.No.16957 of 1990, dated 21.08.2000.

The appellants herein are the respondents 6 to 15, and respondents 1 to 5 herein are official respondents 1 to 5 and the respondents 6 to 8 herein are petitioners in the writ petition.

Originally, the writ petitioners filed the above writ petition seeking a direction in the nature of writ of mandamus, declaring the action of the respondents 4 and 5 in not implementing the orders of the respondents 2 and 3 in CC/Misc/90/JC, dated 4.6.1990 in restoring the possession of the Quarter No.2 RT/10, Karimnagar in their favour as illegal. While the writ petition was pending, the writ petitioner and the 6th respondent died. The learned Single Judge having observed that the quarters are

meant for allotment to the employees, who are serving the organization i.e., the Government and not for habitation of their legal heirs, held that the legal heirs of the 6th respondent should have vacated the quarters after expiry of the grace period, and directed the official respondents to get the quarters vacated and allot the same to the eligible employees. Having aggrieved by the same, the legal heirs of the deceased 6th respondent preferred the present appeal.

The learned Counsel for the appellants contended that the quarter in question was constructed by the Central Government under the scheme for allotment to the persons of Low Income Group under Hire purchase scheme and the allotment was entrusted to an allotment Committee, and under the said scheme, the quarter in question cannot be allotted to the Government Servants. He further contends that the order challenged in the writ petition was not passed by the Joint Collector and it was manipulated. He relied on the Order of Revenue Department, in R.Dis.No.B5/3698/79-II, dated 24.4.1979, wherein the provisional allotment of quarters was regularized in favour of the 6th respondent/1st appellant, on hire purchase from 28.6.1962 on certain conditions. He further contends that as the provisional allotment was made in favour of the 1st appellant and since the quarters are meant for habitation of low income group, on hire purchase, the appellants cannot be evicted from the quarter in question and therefore, the order under appeal is liable to be set aside.

We have perused the order under appeal and the entire material available on record.

On a perusal of the record, it is apparent that the regularization orders had been passed two months prior to filing the earlier writ petition No.4429 of 1979 by the 6th respondent herein, wherein the learned Single Judge directed the District Collector, Karimnagar to consider the claim of the 6th respondent herein. Aggrieved by the same, 1st appellant herein preferred WA No.411 of 1979, wherein a Division Bench of this Court, on 19.9.1985, having observed that the regularization order was passed in favour of the 1st appellant herein two months prior to filing the writ petition, directed the District Collector, Karimnagar to consider the application made by the 6th respondent herein in May, 23, 1979. Pursuant to the said Judgment, the District Collector, Karimnagar addressed a letter to the Government and sought directions as he is not competent to cancel provisional order passed in favour of the 1st

appellant herein.

While the matter stood thus, the 1st appellant herein filed W.P.No.9415 of 1990 and obtained status quo orders in respect of possession of quarters in question. The legal heirs of the 6th respondent herein also filed the above writ petition, questioning the inaction of the official respondents in not restoring their possession.

As can be seen from the material on record, it is manifest that the 1st appellant and his family members have been in possession of the quarters since 1962. It is also clear that the provisional allotment was made in favour of the 1st appellant under Low Income Group Scheme, on hire purchase basis. The question as to the cancellation of allotment of quarters in favour of the 1st appellant and the entitlement of the writ petitioner for allotment of the same, is pending consideration before the Government. At this stage, the order of the learned Single Judge directing the appellants to vacate the quarters, is not sustainable and the same is liable to be set aside.

Accordingly, the Writ Appeal is allowed. No costs.

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Justice T.Meenakumari

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Justice P. Lakshmana Reddy

Dated: 3rd August, 2005.

Nn.